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		1/0-	Robert J.	Kupsch					
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EPA Form 8700-12 (6-80) REVERSE

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GSA No. 0246-EPA-01

Na Low of Section



Eastern Mining Department

R. J. Kupsch General Manager

August 18, 1980

EPA Region VII RCRA Activities P. O. Box 15606 Kansas City, MO 64106

RE: E.P.A. Form 8700-12 Notification of Hazardous Waste Facility West Fork Unit

Dear Sir:

Attached hereto is a completed and executed E.P.A. Form 8700-12 entitled "Notification of Hazardous Waste Activity" prepared in accordance with Section 3001 of the Resource Conservation Act of 1976, as amended (RCRA), and regulations promulgated pursuant thereto. West Fork Unit is one of 38 facilities owned or operated by Asarco which has or may have operations subject to RCRA. There is a large number of substances generated at these facilities which may be deemed hazardous "wastes" under the regulations recently promulgated by the E.P.A. pursuant to RCRA. Asarco believes that many of these substances, including many substances specifically listed in Subpart D of the regulations as hazardous wastes and substances which meet one of the hazardous waste characteristics in Subpart C of the regulations are intermediate products rather than wastes. Since E.P.A. has failed to provide guidance in the existing regulations as to what constitutes an intermediate product, it is impossible at this time for Asarco to make a final determination as to which of the many products listed as wastes in the attached notification are, in fact, wastes rather than intermediate products.

Moreover, because of the large number of substances generated by Asarco facilities which are potentially covered by the regulations, because E.P.A. approved equipment for performing appropriate tests on those substances to determine whether they are, in fact, hazardous is not fully available, and because of

Page 2 EPA Region IV, RCRA Activities, Continued the short period of time allowed to sample, test evaluate and prepare this submittal, it is impossible at this time for Asarco to make a final determination that any or all of the substances generated are, in fact, hazardous wastes. Therefore, submission of this form by Asarco as well as the listing of any substances or the marking of any characteristic therein, is not in any way an admission that any of the substances are either hazardous or waste, or that this facility is a transporter, generator, or storer of hazardous wastes or an owner or operator of a hazardous waste management facility. Asarco reserves the right to withdraw from this notification any substance or substances listed, or any characteristic marked due to a nonlisted substance or substances which is later found to be an intermediate product or a non-hazardous waste. We request that this letter be attached to and made a permanent part of the notification form. In addition, Asarco reserves the right to challenge the inclusion of certain wastes on the hazardous wastes lists contained in Subpart D of the regulations. Very truly yours, 2. J. Lugsch/by R. Borkon R. J. Kupsch, General Manager Eastern Mining Department RJK: jd